

**SUBSTITUTE FOR  
SENATE BILL NO. 129**

A bill to amend 1927 PA 175, entitled  
"The code of criminal procedure,"  
by amending section 2a of chapter XI (MCL 771.2a), as amended by  
1998 PA 520.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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CHAPTER XI

Sec. 2a. (1) The court may place an individual convicted of  
violating section 411h of the Michigan penal code, 1931 PA 328, MCL  
750.411h, on probation for not more than 5 years. The sentence is  
subject to the conditions of probation set forth in section 411h(3)  
of the Michigan penal code, 1931 PA 328, MCL 750.400h, and section  
3 of this chapter. The probation is subject to revocation for any

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violation of a condition of that probation.

(2) The court may place an individual convicted of violating section 411i of the Michigan penal code, 1931 PA 328, MCL 750.411i, on probation for any term of years, but not less than 5 years. The sentence is subject to the conditions of probation set forth in section 411i(4) of the Michigan penal code, 1931 PA 328, MCL 750.411i, and section 3 of this chapter. The probation is subject to revocation for any violation of a condition of that probation.

(3) The court shall by order, to be filed or entered in the cause as the court directs by general rule or in each case, fix and determine the period and conditions of probation. The order is part of the record in the cause. The court may amend the order in form or substance at any time.

(4) ~~This section does~~ **SUBSECTIONS (1), (2), AND (3) DO** not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

(5) **EXCEPT AS OTHERWISE PROVIDED BY LAW, THE COURT MAY PLACE AN INDIVIDUAL CONVICTED OF A LISTED OFFENSE ON PROBATION SUBJECT TO THE REQUIREMENTS OF THIS <<SUBSECTION AND SUBSECTIONS (6) THROUGH (11)>> FOR ANY TERM OF YEARS BUT NOT LESS THAN 5 YEARS.**

(6) **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (7) TO (11), IF AN INDIVIDUAL IS PLACED ON PROBATION UNDER SUBSECTION (5), THE COURT SHALL ORDER THE INDIVIDUAL NOT TO DO ANY OF THE FOLLOWING:**

(A) **RESIDE WITHIN A STUDENT SAFETY ZONE.**

(B) **WORK WITHIN A STUDENT SAFETY ZONE.**

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(C) LOITER WITHIN A STUDENT SAFETY ZONE.

(7) THE COURT SHALL NOT IMPOSE A CONDITION OF PROBATION DESCRIBED IN SUBSECTION (6) (A) IF ANY OF THE FOLLOWING APPLY:

(A) THE INDIVIDUAL IS <<NOT MORE THAN 19 YEARS OF AGE>>

>> AND ATTENDS SECONDARY SCHOOL OR POSTSECONDARY SCHOOL, AND RESIDES WITH HIS OR HER PARENT OR GUARDIAN.

(B) THE INDIVIDUAL WAS RESIDING WITHIN THAT STUDENT SAFETY ZONE AT THE TIME THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION WAS ENACTED INTO LAW. HOWEVER, IF THE INDIVIDUAL WAS RESIDING WITHIN THE STUDENT SAFETY ZONE AT THE TIME THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION WAS ENACTED INTO LAW, THE COURT SHALL ORDER THE INDIVIDUAL NOT TO INITIATE OR MAINTAIN CONTACT WITH ANY MINORS WITHIN THAT STUDENT SAFETY ZONE. THIS SUBDIVISION DOES NOT PROHIBIT THE COURT FROM ALLOWING CONTACT WITH ANY MINORS NAMED IN THE PROBATION ORDER FOR GOOD CAUSE SHOWN AND AS SPECIFIED IN THE PROBATION ORDER.

(8) AN ORDER ISSUED UNDER SUBSECTION (6) (A) SHALL NOT PROHIBIT AN INDIVIDUAL FROM BEING A PATIENT IN A HOSPITAL OR HOSPICE THAT IS LOCATED WITHIN A STUDENT SAFETY ZONE.

(9) THE COURT SHALL NOT IMPOSE A CONDITION OF PROBATION DESCRIBED IN SUBSECTION (6) (B) IF THE INDIVIDUAL WAS WORKING WITHIN THE STUDENT SAFETY ZONE AT THE TIME THE AMENDATORY ACT THAT ADDED THIS SUBSECTION WAS ENACTED INTO LAW. HOWEVER, IF THE INDIVIDUAL WAS WORKING WITHIN THE STUDENT SAFETY ZONE AT THE TIME THE AMENDATORY ACT THAT ADDED THIS SUBSECTION WAS ENACTED INTO LAW, THE COURT SHALL ORDER THE INDIVIDUAL NOT TO INITIATE OR MAINTAIN CONTACT WITH ANY MINORS IN THE COURSE OF HIS OR HER EMPLOYMENT

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1        WITHIN THAT STUDENT SAFETY ZONE. THIS SUBSECTION DOES NOT PROHIBIT  
2        THE COURT FROM ALLOWING CONTACT WITH ANY MINORS NAMED IN THE  
3        PROBATION ORDER FOR GOOD CAUSE SHOWN AND AS SPECIFIED IN THE  
4        PROBATION ORDER.

5        (10) THE COURT SHALL NOT IMPOSE A CONDITION OF PROBATION  
6        DESCRIBED IN SUBSECTION (6) (B) IF THE INDIVIDUAL ONLY  
7        INTERMITTENTLY OR SPORADICALLY ENTERS A STUDENT SAFETY ZONE FOR  
8        PURPOSES OF WORK. <<IF THE INDIVIDUAL INTERMITTENTLY OR SPORADICALLY  
9        WORKS WITHIN A STUDENT SAFETY ZONE, THE COURT SHALL ORDER THE INDIVIDUAL  
10       NOT TO INITIATE OR MAINTAIN CONTACT WITH ANY MINORS IN THE COURSE OF HIS  
11       OR HER EMPLOYMENT WITHIN THAT SAFETY ZONE. THIS SUBSECTION DOES NOT  
12       PROHIBIT THE COURT FROM ALLOWING CONTACT WITH ANY MINORS NAMED IN THE  
13       PROBATION ORDER FOR GOOD CAUSE SHOWN AND AS SPECIFIED IN THE PROBATION  
14       ORDER.>>

9        (11) SUBSECTION (5) DOES NOT APPLY TO ANY OF THE FOLLOWING:

10       (A) AN INDIVIDUAL WHO IS CONVICTED AS A JUVENILE UNDER SECTION  
11       520B, 520C, OR 520D OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL  
12       750.520B, 750.520C, AND 750.520D, OF COMMITTING, ATTEMPTING TO  
13       COMMIT, OR CONSPIRING TO COMMIT A VIOLATION SOLELY DESCRIBED IN  
14       SECTION 520B(1) (A), 520C(1) (A), OR 520D(1) (A) OF THE MICHIGAN PENAL  
15       CODE, 1931 PA 328, MCL 750.520B, 750.520C, AND 750.520D, IF EITHER  
16       OF THE FOLLOWING APPLIES:

17       (i) THE INDIVIDUAL WAS UNDER 13 YEARS OF AGE WHEN HE OR SHE  
18       COMMITTED THE OFFENSE AND IS NOT MORE THAN 5 YEARS OLDER THAN THE  
19       VICTIM.

20       (ii) THE INDIVIDUAL WAS 13 YEARS OF AGE OR OLDER BUT LESS THAN  
21       17 YEARS OF AGE WHEN HE OR SHE COMMITTED THE OFFENSE AND IS NOT  
22       MORE THAN 3 YEARS OLDER THAN THE VICTIM.

23       (B) AN INDIVIDUAL WHO WAS CHARGED UNDER SECTION 520B, 520C, OR  
24       520D OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520B,  
25       750.520C, AND 750.520D, WITH COMMITTING, ATTEMPTING TO COMMIT, OR  
26       CONSPIRING TO COMMIT A VIOLATION SOLELY DESCRIBED IN SECTION  
27       520B(1) (A), 520C(1) (A), OR 520D(1) (A) OF THE MICHIGAN PENAL CODE,

1 1931 PA 328, MCL 750.520B, 750.520C, AND 750.520D, AND IS CONVICTED  
2 AS A JUVENILE OF VIOLATING, ATTEMPTING TO VIOLATE, OR CONSPIRING TO  
3 VIOLATE SECTION 520E OR 520G OF THE MICHIGAN PENAL CODE, 1931 PA  
4 328, MCL 750.520E AND 750.520G, IF EITHER OF THE FOLLOWING APPLIES:

5 (i) THE INDIVIDUAL WAS UNDER 13 YEARS OF AGE WHEN HE OR SHE  
6 COMMITTED THE OFFENSE AND IS NOT MORE THAN 5 YEARS OLDER THAN THE  
7 VICTIM.

8 (ii) THE INDIVIDUAL WAS 13 YEARS OF AGE OR OLDER BUT LESS THAN  
9 17 YEARS OF AGE WHEN HE OR SHE COMMITTED THE OFFENSE AND IS NOT  
10 MORE THAN 3 YEARS OLDER THAN THE VICTIM.

11 (C) AN INDIVIDUAL WHO HAS SUCCESSFULLY COMPLETED HIS OR HER  
12 PROBATIONARY PERIOD UNDER SECTIONS 11 TO 15 OF CHAPTER II FOR  
13 COMMITTING A LISTED OFFENSE AND HAS BEEN DISCHARGED FROM YOUTHFUL  
14 TRAINEE STATUS.

15 (D) AN INDIVIDUAL CONVICTED OF COMMITTING OR ATTEMPTING TO  
16 COMMIT A VIOLATION SOLELY DESCRIBED IN SECTION 520E(1)(A) OF THE  
17 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520E, WHO AT THE TIME OF  
18 THE VIOLATION WAS 17 YEARS OF AGE OR OLDER BUT LESS THAN 21 YEARS  
19 OF AGE AND WHO IS NOT MORE THAN 5 YEARS OLDER THAN THE VICTIM.

20 (12) AS USED IN THIS SECTION:

21 (A) "LISTED OFFENSE" MEANS THAT TERM AS DEFINED IN SECTION 2  
22 OF THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.722.

23 (B) "LOITER" MEANS TO REMAIN FOR A PERIOD OF TIME AND UNDER  
24 CIRCUMSTANCES THAT A REASONABLE PERSON WOULD DETERMINE IS FOR THE  
25 PRIMARY PURPOSE OF OBSERVING OR CONTACTING MINORS.

26 (C) "MINOR" MEANS AN INDIVIDUAL LESS THAN 16 YEARS OF AGE.

27 (D) "SCHOOL" MEANS A PUBLIC, PRIVATE, DENOMINATIONAL, OR

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1 PAROCHIAL SCHOOL OFFERING DEVELOPMENTAL KINDERGARTEN, KINDERGARTEN,  
2 OR ANY GRADE FROM 1 THROUGH 12. SCHOOL DOES NOT INCLUDE A HOME  
3 SCHOOL.

4 (E) "SCHOOL PROPERTY" MEANS A BUILDING, FACILITY, STRUCTURE,  
5 OR REAL PROPERTY OWNED, LEASED, OR OTHERWISE CONTROLLED BY A SCHOOL  
6 TO WHICH EITHER OF THE FOLLOWING APPLIES:

7 (i) THE BUILDING, FACILITY, STRUCTURE, OR REAL PROPERTY IS USED  
8 TO IMPART EDUCATIONAL INSTRUCTION.<< >>

9 (ii) THE BUILDING, FACILITY, STRUCTURE, OR REAL PROPERTY IS FOR  
10 USE BY <<STUDENTS NOT MORE THAN 19 YEARS OF AGE>> FOR SPORTS OR OTHER  
RECREATIONAL ACTIVITIES.

11 (F) "STUDENT SAFETY ZONE" MEANS THE AREA THAT LIES 1,000 FEET  
12 OR LESS FROM SCHOOL PROPERTY.

13 Enacting section 1. This amendatory act takes effect October  
14 15, 2005.